

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM**

EXECUTIVE SUMMARY FOR ACTION ON AMENDMENT OF RULES

Agenda # III.B.2.

Agenda Item Summary: The Board has proposed amending certain air quality open burning rules.

List of Affected Rules: ARM 17.8.601, 604, 605, 606, 610, 612, and 614.

Affected Parties Summary: The proposed rule amendments could affect all minor open burning sources regulated by the Department under Title 17, chapter 8, subchapter 6, "Open Burning".

Scope of Proposed Proceeding: The Board is considering final action on adoption of amendments to the above-referenced rules as proposed in the Montana Administrative Register.

Background: The proposed rule amendments would revise conditional, essential agricultural, and minor source open burning rules to allow for certain minor open burning in winter to be conducted, primarily in eastern Montana. The proposed amendments revise the time periods, materials, and criteria applicable to such open burning.

The current rules allow only prescribed wildland open burning, open burning to train firefighters, emergency open burning, and essential agricultural open burning to take place during the winter season (December through February). These burns are generally larger and create greater impacts than other minor open burning sources. The proposed amendments would allow all types of non-prohibited minor open burning to take place during the winter season at times and in places where the ventilation is sufficient to protect ambient standards. Burns located outside of the Eastern Montana Open Burning Zone would be subject to Department review and would require prior approval from the Department. Those burning in the Eastern Montana Open Burning Zone would still be required to notify the Department prior to burning.

The current air quality open burning rules may be in conflict with the solid waste rules that regulate open burning conducted at licensed landfills, and the proposed amendments make the rules consistent with the state and federal solid waste rules that regulate such burning.

Current rules allow landfill open burning permits to be valid for only 30 days and a single burn. Often such burns cannot be completed during the time the permit is valid, due to meteorological conditions. The proposed amendments would change the time these permits are valid to one year after the permit is issued, and would require burn piles at licensed landfills to be inspected by the Department or its designated representative prior to every burn. That is mainly to determine whether or not there are prohibited materials in the piles.

Minor editorial and grammatical changes are proposed that do not change the meaning of the

rules but make them more readable.

The Department is proposing that the Board make a few additional minor revisions to the proposed rule amendments. These revisions are shown in the draft Notice of Amendment attached to this executive summary.

Hearing Information: Kelly O’Sullivan conducted a public hearing on September 18, 2002, on the proposed amendments and their submission to EPA as a proposed revision to the SIP. Public comments received and the Department’s proposed responses are included, respectively, with the Hearing Officer Report and the draft Notice of Amendment attached to this executive summary.

Board Options: The Board may:

1. Adopt the proposed amendments as set forth in the attached Notice of Public Hearing on Proposed Amendment;
2. Adopt the proposed amendments with revisions that the Board finds are appropriate and that are consistent with the scope of the Notice of Public Hearing on Proposed Amendment and the record in this proceeding; or
3. Decide not to adopt the amendments.

DEQ Recommendation: The Department recommends that the Board adopt the proposed amendments, with the revisions shown in the attached draft Notice of Amendment.

Enclosures:

1. Notice of Public Hearing on Proposed Amendment;
2. Hearing Officer Report; and
3. Draft Notice of Amendment